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UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

UNITED REPUBLIC OF TANZANIA

[29 April 1994]

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Introduction

Geographical aspects

1. The United Republic of Tanzania is comprised of the mainland and the Isles, i.e. Zanzibar. It is situated on the east coast of Africa with a total area of 945,000 km^2. The country is divided into four climatic zones, namely: the humid zone; the plateau zone, which is the least populated area; the lake zone around lake Victoria with high rainfall; and the northern and southern highlands, the most fertile and densely populated zone.

Population

2. According to the report of the 1988 population census, there were about 23.1 million people in Tanzania. At the moment, it is estimated that the population has increased to about 25 million people and about 55 per cent or 13 million are children under the age of 15. The annual growth rate is 2.8 per cent, while the fertility rate is 7 per cent and life expectancy at birth is 55 years. About 15 per cent of the population live in urban areas; thus most of the people (85 per cent) live in rural areas and are mostly engaged in agricultural activities.

Administration

3. Tanzania is divided into 25 administrative regions, 20 in the mainland and 5 in the Isles. The mainland is divided into 106 districts, which are in turn subdivided into divisions, wards and villages. The government machinery was decentralized in 1972 to promote people's participation in development planning and to facilitate local decision-making. The district is the key unit in terms of administration, planning, budgeting and resource allocation.

Socio-economic and cultural aspects

4. Tanzania is among the poorest countries in the world, with a per capita GNP estimated at US$ 110 in 1992. The economy is based on agriculture, which accounts for 45 per cent of GNP and 75 to 80 per cent of export earnings. Ninety per cent of the total food requirement is locally produced.

Economic shocks of the 1970s and the 1980s to date

5. In the 1970s the country experienced a number of shocks, including drought, war with Uganda and the oil price crisis. Agricultural production fell and ever since official producer prices have not kept up with consumer price increases. Manufacturing output also fell due to shortages of imported spare parts, fuel problems, infrastructural services, electricity and water supply. The real value of the government budget and its spending on social services fell. The quality of education and health services deteriorated. Rural and urban households suffered due to falling real incomes and shortages of essential commodities. Public sector wages and salaries also fell.

6. The economic crisis of the 1980s led to a series of government measures to address structural problems in the economy, including the Structural Adjustment Programme (1982-1985) and the subsequent Economic Recovery

Programme (ERP) launched in 1988. While these programmes have helped to improve the performance of the economy, particularly agriculture, they have imposed a substantial sacrifice on the social sectors. ERP has had a tremendous impact on people's lives as a result of the decline in real incomes, among other reasons. By 1984 the real wage of workers in the manufacturing sector was estimated to be 70 per cent lower than in 1972. Adults and children alike are pursuing multiple economic activities in an attempt to ensure that their family survives.

Cultural issues

7. Traditionally, the family is regarded as the basic unit of production, reproduction and consumption. The family structures are varied and changing. Polygamy is normal and accepted for men all over the country, though not formally accepted by Christians.

8. Wives are considered to constitute the husband's labour force; therefore husbands used to pay bride prices to the wives' families before contracting a marriage. But because of the rising cost of living, the tradition is slowly disappearing in some families and tribes.

9. Married women do not have inheritance rights upon the death of their husbands; they only enjoy the use of property by virtue of their male children. If a woman has no children, she is accorded very limited rights. Unmarried daughters also suffer from similar problems since they have no full inheritance rights to family property, compared to their brothers.

Language

10. The official language is Kiswahili, which is spoken throughout the country. However, local ethnic languages are spoken by different tribes, more than 120 in number. Kiswahili is used in primary schools while English is used in secondary education and in institutions of higher learning. English and Kiswahili are both accepted as a means of communication in workplaces.

Religion

11. There is no official religion in Tanzania; every citizen has the freedom to choose his or her own religion. However, there are three major religious groups: Christians, Muslims and Traditionalists.

I. SITUATION OF CHILDREN IN TANZANIA

12. It is estimated that about 13 million out of the total population of 25 million (current estimates) are children under the age of 15. It is clear that such a large young population demands special policies to ensure children's survival, as well as development opportunities for their future.

13. Approximately 200,000 children under the age of five die in Tanzania every year, most from preventable causes. According to estimates based on the 1988 population census, out of every 1,000 babies born, 105 die before their first birthday and 192 die before reaching the age of five years.

14. The major direct causes of child deaths in order of importance are malaria, respiratory infections and diarrhoeal diseases. Half of the infants who do not reach their first birthday die during the first month after birth. In most cases these deaths are related to the poor health status of women during pregnancy and childbirth. Women who are overworked, and suffer from anaemia, malnutrition and malaria risk giving birth to babies with very low weight and ill-health.

15. Malnutrition is another underlying factor. Almost half of all children under five suffer from malnutrition. Of these more than 2 million are moderately undernourished (under 80 per cent of standard weight for age). About 6 to 7 per cent are severely undernourished.

16. Mortality and malnutrition rates are highest in economically less developed areas of the country, notably in the peripheral areas in the south and west mainland and in rural areas of Zanzibar.

II. GENERAL MEASURES TAKEN TOWARDS THE IMPLEMENTATION OF THE CONVENTION

17. In September 1990, 71 Heads of State and Government met in New York for a World Summit for Children. President Ali Hassan Mwinyi was among them. The Heads of State and Government adopted a Declaration on the Survival, Protection and Development of Children and a Plan of Action for Implementation of the Declaration in the 1990s. The following are measures taken towards the implementation of the declaration.

Formation of a new ministry

18. Soon after the return from the World Summit and his re-election, President Ali Hassan Mwinyi reorganized the Government. In November 1990 a new Ministry of Community Development, Women's Affairs and Children was established and given special responsibility for following up on the Declaration of the World Summit. In May 1991, Tanzania ratified the Convention on the Rights of the Child, largely as a result of the work of the new Ministry.

Translation of the Convention

19. In order to make the Convention known to the public, it has been translated into Kiswahili, the language which is understood and used by the majority of Tanzanians. In this way, Tanzania has complied with article 42, which requires the principles and provision of the Convention to be made widely known, by appropriate and active means, to adults and children.

The National Summit on the Survival, Protection and Development of Children

20. Shortly after the World Summit on Children in June 1991 a National Summit on the Survival, Protection and Development of Children was organized under the chairmanship of the Prime Minister, His Excellency, the Honourable John Malecela. The national Summit was aimed at sensitizing parliamentarians, policy-makers, non-governmental organizations and members of the diplomatic corps and international organizations accredited to Tanzania.

21. During the Summit, members of the National Assembly discussed and analysed the global goals for children. The following major problems were identified.

(i) Most children are not properly fed;

(ii) Malnutrition, together with malaria, diarrhoeal diseases and respiratory infections, accounts for 80 per cent of infant and child deaths;

(iii) Children between the ages of two and five (pre-school age) lack proper care because of the demands on their parents' time of other activities; and

(iv) Maternal deaths are caused by women's poor condition as a result of chronic imbalances between energy intake and the demands of heavy workloads, even during pregnancy, and the depletion of body energy reserves. The condition is worsened by early marriage and the fact that many women bear children when their bodies are not yet physically mature.

22. Taking into consideration the central importance of the issue of child survival, protection and development for national socio-economic development, the National Summit participants reached a collective agreement that, together with the people they represent in their respective constituencies, they would ensure the achievement of the goals.

23. The members of the National Assembly endorsed the major goals, which were adopted by the World Summit, as major national goals.

The goals for children adopted by Tanzania

24. The following seven major goals have been adopted by Tanzania:

(i) Between 1990 and the year 2000, to reduce mortality rates of infants and children under five by one third, or to 50 and 70 per 1,000 live births respectively, whichever is less. Goal: by the year 2000, infant mortality rates should be reduced to 50 and under-five mortality rates to 70.

(ii) Between 1990 and the year 2000, to reduce maternal mortality by half. Goal: to reduce the rate of maternal mortality to between 100 and 200 per 100,000 live births.

(iii) Between 1990 and the year 2000, to reduce moderate and severe malnutrition among children under five by half. Goal: to reduce the rate of severe and moderate malnutrition to 3 per cent and 22 per cent respectively.

(iv) Universal access to safe drinking water and sanitary means of excreta disposal by the year 2000. Currently only 48 and 65 per cent of rural and urban population, respectively, have access to safe drinking water; 62 and 74 per cent of the rural and urban population, respectively, have sanitary means of excreta disposal.

(v) Universal access to basic education and enrolment of all school-age children (seven-year-olds) by the year 2000. At least 80 per cent of these children should complete primary education by the age of 15 and should be able to read, write and be able to live independently. Although primary school enrolment rates are 70 per cent in total, according to available statistics, only 12 per cent of standard I pupils are of the appropriate age, the rest are older than seven. Overall completion rates are 75 per cent.

(vi) By the year 2000, to reduce adult illiteracy to at least half of the 1990 level, with special emphasis on female literacy. According to the Ministry of Education and Culture's statistics for 1989, adult literacy rates were 93 per cent for men and 88 per cent for women. These rates should reach 96 and 94 per cent for men and women, respectively.

(vii) Improved protection of children in especially difficult circumstances by the year 2000. In addition to the seven major goals, Tanzania has goals relating to the reduction of morbidity and mortality due to malaria and the control of HIV/AIDS.

The National Plan of Action

25. In an attempt to provide a framework for integrating the ongoing sector programmes for children, the National Plan of Action was commissioned. Preparation of the document was coordinated through the Secretariat of the National Coordinating Committee for Child Survival, Protection and Development (NCC-CSPD) which comprises representatives from the Planning Commission, the Ministry of Community Development, Women's Affairs and Children, and the Prime Minister's Office.

26. The Tanzanian National Plan of Action represents a systematic effort to address and improve the situation of children and women. It aims at providing a social development framework within which strengthened programmes and additional resources can be provided to respond to the urgent needs of Tanzanian children and women. It mainly assembles in a more coherent and systematic manner the programmes relating to children and women which are already being implemented. What is new is the focus on an increased tempo in implementation using alternative methodologies and approaches to facilitate achievement of the goals for children which have been adopted.

27. The strategy for implementation stresses empowerment of communities through capacity-building with support from districts and national and international institutions. In this regard, the Ministry of Community Development, Women's Affairs and Children has started by making the National

Plan of Action known to top policy-makers at ministerial and regional levels. Heads of key departments in the implementation will also be sensitized so that aspects of the Plan of Action are included in their development plans.

III. THE LEGAL IMPLICATIONS OF THE CONVENTION

28. In implementing the Convention, legal systems were evaluated to see how they could be utilized effectively. The following are the results of the exercise.

Definition of the child: article 1 of the Convention

29. The definition of a child in article 1 of the Convention is a person under 18 years. Tanzanian laws do not provide a uniform definition. The definition depends on the context. For example:

The Children and Young persons Ordinance, cap. 13 of 1937, Rev. 1964, defines a child as anyone under 12 years;

The Adoption Ordinance, cap. 335, of 1955, says a child is anyone under 21 years who is not married;

The Law of Marriage Act of 1971 says a girl of 15 years can marry with parental consent, while under the Constitution of the United Republic of Tanzania of 1977, as amended in 1985, a person under 18 years cannot vote or be voted for.

Under the Employment Ordinance, cap. 366, a child is a person who appears to be under 15 years.

Some of these definitions do comply with the Convention in the sense that they aimed at safeguarding the interests of children. However, efforts are being made to review Acts which are discriminatory to children, for example, the Marriage Act.

Non-discriminatory issues

30. The question of equality in terms of article 2 is inhibited by attitudes, customs and traditions. Some customs and traditions are totally repugnant to the Convention, but the society cannot do without them. Although the Constitution of the United Republic of Tanzania has a provision in this respect, there are other laws which totally go against it that have not yet been declared unconstitutional. To cite but a few examples:

The customary Law Declaration Order, 1963, rules 21, 22, 25 and 30;

The Probate and Administration Ordinance, cap. 445; and

The Indian Succession Act, 1965.

31. This legislation discriminates against women and girls in matters of inheritance. Under these laws, whereas boys are heirs in the first and second degree, girls are of the third degree only. They are not allowed to inherit clan land or their parents' estate.

The Right to life, survival and development

(i) Legal context

32. According to the Constitution of the country, nobody under any circumstances is to put to an end to the life of another person except by the order of the court. Articles 150, 151 and 152 of the Penal Code also prohibit the killing of an unborn child. Laws such as the Marriage Act, Affiliation Ordinance and Children and Young Persons Act provide that children are to be brought up in a safe and decent environment.

(ii) Implementation

33. Much has been done to implement these articles, except in the case of orphans and disabled children. Generally, the Government has encouraged and supported voluntary and religious organizations to provide care and ensure the survival and development of such children. Emphasis is put on empowering communities to provide services and facilities to needy children.

Name and nationality

(i) Legal context

34. The Constitution, Citizenship Ordinance, cap. 452, and the Common Law Doctrine provide for infants to be given names immediately after birth and registration. In the case of the changing of names, the Judicial Proceedings and Statutory Declaration Act of 1966 is applied and cancellation is done by authorized people. The names of children are not subject to change until they are mature.

35. The Citizenship Ordinance, cap. 452, guarantees citizenship to any child provided the child is born in Tanzania and registered within the first three months of life. Children born to a Tanzanian couple living outside the country can be registered in the country of birth or in Tanzania.

(ii) Implementation

36. Registration of births is sometimes not performed, especially in rural areas. The Department of Law is currently educating communities on the importance of registration of births and deaths.

Freedom of expression, belief, religion, association and peaceful assembly: articles 11 to 16 of the Convention

37. Generally, these articles are not covered by law mainly owing to society's belief that anybody regarded as a child at a certain age cannot be left to make decisions concerning his life. Traditionally, a person is free

from the family bond when he or she marries. Every child is supposed to adhere to the cultural norms of the society in which he lives and is not allowed to believe in a religion which the parents do not believe in.

Access to appropriate information: article 17 of the Convention

38. There is no legal implication on this article but the mass media in Tanzania have taken up coverage of children's issues. Despite the limited number of mass media channels, there are radio programmes and magazine columns for children. The Tanzanian Film Company also is making sure that children are protected from watching films which would adversely affect their behaviour. There is little advocacy concerning the provision of information to children or the lack of children's books. The Government is encouraging people to write children's books.

Parental responsibility

(i) Legal context

39. The Law of Marriage Act and the Affiliation Ordinance state that every child has the right to parental care. Parents should give intimate care and provide for their children's basic needs. The Penal Code also states that it is a criminal offence for parents and guardians to fail to take care of their children. Under section 166 it is an offence for parents or guardians wilfully to desert or leave a child without means of support.

(ii) Implementation

40. Children who fall victim to inadequate parental care are sometimes taken in by relatives. Others, most of them orphans without alternative means of care, are provided for by social welfare. Efforts are being made to improve the living conditions of the people and to empower communities to take care of their own children.

Children deprived of a family environment: article 20

(i) Legal context

41. The Children and Young Persons Act and the Adoption Ordinance have provisions for children who for various reasons cannot be brought up by parents to be placed under the custodian of another person or institution dealing with such issues.

(ii) Implementation

42. Social Welfare is the only Government Department charged with the implementation of this law. There are a few centres mainly for orphans. Religious institutions also have established such centres, they mainly take care of orphans and children of single parents upon application. Efforts are being made to establish simple credit facilities in Kagera region where there are over 70,000. The Government is encouraging parents to adopt orphans and children deprived of their families.

Adoption: article 21

(i) Legal context

43. This article is covered by the adoption Ordinance.

(ii) Implementation

44. Adoption is almost non-existent in our societies and where it exists it is left in the hands of religious institutions. Traditionally, adoption is not possible as the extended family system allows children to remain within the family: in the case of the death of their parents, children are taken care of by other members of the family.

Safe water and sanitation

(i) Implementation

45. According to a national survey carried out as part of the ongoing 20-year water plan, the estimated coverage in urban areas is 65 per cent and in rural areas 45 per cent. Promotion of sanitation has focused on human excreta disposal through a nationwide campaign on latrine construction and use. Figures show that 74 per cent of the urban and 62 per cent of the rural population had at least acceptable means of excreta disposal. The Government is encouraging community based operations and maintenance of water supply schemes and sanitation, to ensure sustainability.

Disabled children

(i) Legal context

46. Tanzania passed two acts in 1982, Act No. 2, the Disabled Persons (Employment) Act and Act No. 3, the Disabled Persons (Care and Maintenance) Act. By these Acts a National Advisory Council was established with regional and district committees. The Council and its committees are entrusted with the task of formulating programmes which may secure the educational, vocational and social integration of handicapped persons.

(ii) Implementation

47. The Government and NGOs have initiated a number of schools programmes to cater for the needs of disabled children. These include general educational and special education for blind, deaf and mentally handicapped children. However, these services are not adequate.

Social security

48. So far laws governing the National Provident Fund Act, the Parastatal Pension Scheme and the Government Pension Scheme recognize the rights of heirs of an employee who is entitled to such schemes after death. The heirs include children and all dependants.

Universal primary education

49. At the time when the law became operational in the 1970s enrolment increased year after year, but fell sharply in the 1980s following the economic shocks in those days. In 1990, only 78 per cent of those of schoolgoing age were enrolled. Of that 78 per cent, only 12 per cent were aged seven, which is the legal starting age for primary education.

Leisure, recreation and cultural activities: article 31

50. The Public Holidays Act is the only law operating under this article. Children are entitled to rest on all public holidays and school holidays. All children are allowed access to public recreational centres. School games and cultural competitions are organized annually. More important, children are actively taking part in the celebrations to mark the day of the African child, every 16 June.

Child refugees

51. The appropriate law under article 22 is the Immigration Act, which permits refugees to enter the country with children.

52. Tanzania has had the largest number of refugees in East Africa. All refugees are accorded treatment on an equal basis with indigenous people. Organizations such as the Tanzania Red Cross Association, the Christian Council, UNHCR and World Vision work in collaboration with the Government on refugees.

Child labour

(i) Legal context

53. The Employment Ordinance prohibits the employment of a child less than 15 years old.

(ii) Implementation

54. Child labour is prohibited by law but children are to be found doing hard work in places like backyard garages, hotels or on the roadside by day or night selling bread, oranges, etc. Others are reported on estates and plantations. There are various causes of child labour: poverty, family breakdown, violent home environments, school dropouts and the influence of peer groups. The International Labour Office has done a study and come up with a national policy on child labour.

Drug abuse

55. The Dangerous Drugs Act aims at putting children involved in drug abuse under special protection. However, the law does not specify measures to be taken when children are involved in drug abuse. The Government has continued with mass education and encouraged NGOs to support rehabilitation programmes of drug addicts.

Protection of children from sexual abuse

(i) Implementation

56. According to the law, any person found guilty of rape, abduction of girls under 16 years, indecent assault, defilement of girls below 14 years, etc. is subject to 30 years' imprisonment. The Government has initiated the formation of the African Movement for Prevention and Protection Against Child Abuse.

Children in conflict with the law and administration of juvenile justice: articles 39 and 40

(i) Legal context

57. The operating law under these articles is the Children and Young Persons Act. According to this law, children in conflict with the law are put in remand homes which are under the social welfare department.

(ii) Implementation

58. Implementation faces the problem of shortage of trained social workers and remand homes, of which there are only five serving the entire country. Efforts are being made to review the situation of remand homes and increase the number of counselling officers.

IV. CONSTRAINTS

59. The implementation of the legal aspects of children issues has been facing the following problems. The major constraint is time, owing to the fact that the formation of the Ministry coincided with the ratification of the Convention. Hence the delay in following up the implementation of the Convention.

(i) Development plans

Development plans have tended to be subsumed under the provision of social services with the assumption that the general provision of social services with, for example, health facilities, schools and water supplies would automatically result in improvement in the well-being of children as they are part of the society.

(ii) Resource constraints

Economic realities at community level have made it difficult for the Government and families to meet the costs of development activities, such as education and special care of children in difficult circumstances.

(iii) Social and cultural factors

Traditional beliefs are still widespread as regard the cause and nature of many diseases. They include an acceptance of high mortality and morbidity rates as "the will of God" and hinders efforts to combat the situation. Ethical values also have resulted in minimal impact of the implementation of some laws, for example concerning early marriage or situations where children cannot make personal decisions without their parents or guardians, such as the choice of their religion, etc.

V. CONCLUSION

60. Achievement of the goals for the children of Tanzania in the 1990s will revolve around key issues. These are the degree of political commitment to the goals; and the development of adequate capacity at all levels of the system to implement and sustain the National Plan of Action.

61. In the implementation of the National Plan of Action, sectoral ministries, notably those responsible for agriculture, health, education, water and social welfare, will be charged with the responsibility of giving technical advice, while the Prime Minister's Office, the Planning Commission and the Ministry of Community Development, Women Affairs and Children will be responsible for overall coordination, management, facilitation and resource mobilization.